IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Lee Cranmer, a single person, Plaintiff, vs. Tucson Police Department; City of Tucson; Chief Richard Miranda; Detective M. Lenard and John Doe Lenard, wife and husband; Officer Mark Spellman and Jane Doe Spellman, husband and wife, Defendants.	)	No. 03-CV-282 TUC JMR. ORDER

Lee Cranmer, a single person, Plaintiff, vs. Tyconic, Inc.; Mark Spellman and Jane Doe Spellman, husband and wife; Kathleen Dailey and John Doe Dailey, wife and husband, Defendants.	)	Consolidated No. 04-CV-150 TUC JMR

These cases involve the rampant fraudulent activities of Jeanie Hering, the apparent-wife of Plaintiff Lee Cranmer, M.D. Hering not only perpetrated check and credit card fraud, but she also committed bigamy in purporting to marry Cranmer, which Cranmer did not discover until many months later. Tucson Police investigators believed that Cranmer was Hering's accomplice in the ongoing fraud, and they eventually arrested both on the same day.

Hering was convicted, but Cranmer was never formally charged, and he brings these consolidated lawsuits against the police and Tyconic, the business that assisted the police in Cranmer' s apprehension. Both sets of Defendants, the City and Tyconic, have filed a motion for summary judgment.

Although Cranmer was never formally charged after his arrest, ample grounds existed for Cranmer's arrest. A non-exhaustive list of grounds include (1) Hering deposited $43,356 in Cranmer's bank accounts, the total sum of which was derived from five checks drawn on a closed account; (2) Cranmer did not return the calls of bank investigators; (3) Cranmer falsely told investigators that the FBI and Secret Service were working on his behalf when neither were; (4) Cranmer falsely told investigators that his attorney in South Dakota was working on his case (the attorney did not know Cranmer and was a prosecutor) and (5) Hering made payments for flying lessons for Cranmer, using stolen credit cards or stolen credit card numbers. For the reasons stated below, both motions are granted.

Background

The following facts are based on the evidence filed by Defendants in support of their motions for summary judgment. Plaintiff did not offer alternative evidence. Cranmer and Hering started living together in Cranmer's home at the end of June 2001, and they married in 2002. In July 2001, Hering obtained employment at Goodman's Office Furniture. Between September and December 2001, Hering purchased $12,860.00 worth of furniture from American

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1/ The Court granted Plaintiff an extension of time to February 11,2005 for filing responses to the motions for summary judgment. However, Plaintiff did not respond to the motions until June 2, 2005. Defendant's motion to strike is granted, although even perusal of Plaintiffs response indicates that no genuine issue of material fact exists.

Home Furnishings, using her own closed bank account from South Dakota and a credit card number she stole from Goodman's. Hering had the furniture delivered to the home she shared with Cranmer,

Cranmer started taking flying lessons from Tucson Aero Service Center in July 2001. On October 8,2001, Hering called in a payment of $600 for the lessons, using Cranmer's American Express card number. The $600 covered the outstanding invoices on Cranmer's account with Tucson Aero and left a credit, which Cranmer later used. On January

12, 2002, however, Cranmer notified American Express that the $600 payment had been unauthorized, and he was reimbursed by American Express. Cranmer did not contact Tucson Aero to dispute the payment.

On November 21, 2001, Hering called Tucson Aero to make a payment as a "Christmas gift" to Cranmer, charging $1000 to a stolen credit card belonging to James McDonald. Cranmer used this payment for flight lessons. When Cranmer quit taking lessons at Tucson Aero on December 16, 2001, he received a file that included the receipts, payment invoices, and corresponding credit card receipts for each credit card payment that Hering had made. McDonald called Tucson Aero on January 15, 2002 to inform them of the fraudulent charge. Tucson Aero subtracted the $1000 from Cranmer' s account and left a cell phone voice message with Cranmer. Hering called Tucson Aero the next day to charge the $1000 to another credit card, Cranmer's father's American Express card.

In November 2001, Crammer reported fraud to his bank, and asked that a fraud packet be mailed to him. At the end of December 2001, Cranmer called Wells Fargo again because he had never received the packet. He then attempted to obtain the packet from a bank branch, but when he anived the bank told him that a woman had called and had requested that the packet be delivered to Cranmer's home, located in a gated community. The woman had left a call-back number, which Cranmer recognized as Hering's old cell phone number. The

courier service told Cranmer that a woman at his house had accepted the fraud packet and had paid in cash for the delivery.

On March 12, 2002, Cranmer started his flying lessons again, this time with Defendant Tyconic, Inc. Cramner's flight instructor, Defendant Mark Spellman, was also a sergeant of the Tucson Police Department. Cranmer told Tyconic that Hering would call in a credit card number for his new account. Hering called Tyconic that day, saying that she wished to buy "block time" for Cranmer as a secret gift to him. She charged $882 to a credit card number stolen from Susan Gamble. On March 15, Gamble reported to the Tucson Police Department that $3,837 in clothing, flight services, and mail order purchases had been charged to her credit card between March 6 and 13, 2002. Gamble's actual card was still in her office drawer, which was located across the street from Hering's workplace. Hering would occasionally visit Gamble as a client. Cranmer and Hering called Tyconic several times to see if the discrepancies in the account had been resolved. When they were told that the problems remained, they indicated that Hering would come to pay in person. Cranmer's last lesson with Tyconic was on March 28; he had an appointment scheduled for April 1, but he called in sick and never returned.

Steve Weaver of Chase Manhattan Bank called Hering on March 30 regardingGamble's credit card. Hering said that she had purchased the flying lessons for Cranmer with her own Citibank card, whose number she claimed was two digits off

Gamble's card number. Weaver discovered, however, that no such Citibank card existed. Weaver left two messages on Cranmer's office phone on April 1, after being told by Hering that Cranmer was at work. Weaver also investigated an account that Cranmer held with Prudential Financial. On April 1, Prudential told Weaver that Cranmer had told Prudential that the Secret Service had been investigating fraud committed against Cranmer. Prudential gave Weaver the Secret Service report number given to Prudential by Cranmer. Weaver contacted the Secret Service,
and discovered that no such report number existed, nor was there any investigation under the last name of Cranmer. Weaver left more messages with Cranmer, including at a cell phone number provided by Cranmer to Prudential Bank. The phone had a female voice on the answering message, and when Weaver called it again on April 3, a woman calling herself Carla said that she had no idea who Cranmer was.

On April 3, Weaver finally contacted Cranmer through his pager. Crarimer confirmed that he was married to Hering, but he refused to talk to Weaver, referring him instead to Cranmer' s attorney in South Dakota, Gary Colwill, and to the Secret Service. Weaver called the number Cranmer gave as Colwill's, but the person answering said that the number was for a day care center. Weaver then called the South Dakota State Bar and was given a number for a Gary Colwill. Colwill answered and said that he has not been in private practice for years, that he is a prosecutor, and he did not know

the Cranmers.

On April 8, 2002, Cranmer stated in a declaration to Wells Fargo that movers had stolen his checkbook in September 2001, and that his bank information had apparently been passed to a criminal gang. He also reported that he had filed a police report on December 26, 2001, with the Pima County Sheriff, the Secret Service, and the FBI. He listed the FBI agent's name, phone number and case numbers, and he claimed that the suspects had been arrested. Cranmer listed an incorrect payment for one of the checks. Wells Fargo reimbursed Cranmer $1300.

On April 15, 2002, Cranmer contacted FBI Agent James Scharman by phone. Cranmer indicated that Hering had said that she had met with Scharman several times in connection with the investigation of fraud being perpetrated against Cranmer and Hering. Scharman responded that he had never met with Hering, knew nothing about such incidents, and did not work on fraud cases. Yet on April 18, Crarimer reported a forged check to the Tucson Police Department and said that Scharman was working on his fraud case.

Detective Margaret Lenard of the Tucson Police Department was assigned to the investigation of Hering in February 2002. She discovered that Hering was a multi-state offender with six social security numbers, and that Hering had written numerous checks on closed accounts and made charges on stolen and fraudulent credit accounts.

Five of those checks, written for $43,356.00, had been written to Cranmer and deposited into his bank account. Det. Lenard also learned about all of the incidents described above.

Det. Lenard discussed the grounds for Cranmer's arrest with Sgt. Spellman, Cranmer's flight instructor at Tyconic. On April 22, 2002, Cranmer called Tyconic, and Spellman answered the phone. Cranmer asked if Hering had paid the latest bill, and Spellman said no. Cranmer insisted that Spellman verify that Hering had not come in during the previous week to the pay the bill, and Spellman did so. Spellman told Cranmer the amount owed, and Cranmer said he would come in right away to pay it. When Cranmer arrived, Spellman told him, "You and your wife have some real problems. . . ." (Cranmer Dep. at 136:20—21, Exh. A, Tyconic Defs.' Stmnt. Facts (Dec. 14, 2004).) Cranmer responded, "I recognize that." (Id.)

Speliman said that he was acting as a police officer and not for Tyconic, and without using force he detained Cranmer in a side room. Speilman left to call Det. Lenard, and returned to ask Cranmer questions, but Cranmer responded, "Mark, you know very well that, under these circumstances, I can't talk to you." (Id. at 138:7—8.) Spellman continued questioning Cranmer intennittently for the next three hours, leaving frequently to use the telephone. Cranmer was permitted to use the restroom, and at that point he had a brief interaction with two Tyconic employees, including Defendant Dailey.

During questioning, Speliman accused Cranmer of fraud and of not being a real doctor. Spellman tried to get Cranmer to make a confession by telling him, "It's going to be easier for everyone involved. When we get one of you, we get the other, so you might as well start telling the story." (Id. at 139:9—11.) Speilman explained that they were waiting for Det. Lenard to arrive, but at some point he indicated that she had become occupied with other matters. Cranmer eventually asked to speak with his lawyer. Speilman arrested Cranmer at 12:45 p.m., and Hering was arrested later that day. Cranmer was booked and arraigned on the same day, but the Pima County Attorney's Office never filed formal charges against him.

The City Defendant's accounting and fraud expert, Chris Linscott, concluded that any reasonable fraud investigator, knowing what Det. Lenard knew, would have concluded that a significant amount of evidence existed that Cranmer was involved in fraud. Plaintiff has not provided expert testimony.
Complaint

Cranmer filed his complaints against both sets of Defendants in state court on April 18, 2003, Defendants removed the cases to this Court, and the Court consolidated the cases on May 26, 2004. Cranmer alleges that his warrantless arrest by the City Defendants violated the Fourth Amendment of the U.S. Constitution, Article 2.1(A)(1) of the Arizona Constitution, and "laws of the State of Arizona." Cranmer also alleges that in arresting him, the City committed false imprisonment, malicious

prosecution, defamation of character, gross negligence, and negligence, and that Speilman's interrogation constituted intentional infliction of emotional distress. Cranmer alleges that the Tyconic Defendants, in participating in Speliman's activities, committed false imprisonment, defamation of character, and intentional infliction of emotional distress.

Summary Judgment Standard

Summary judgment is appropriate under Fed. R. Civ. P.56(c) where the moving party carries its initial responsibility of"demonstrat[ing] the absence of a genuine issue of material fact." Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Thereafter, the opposing party "may not rest upon the mere allegations or denials of his pleadings, but. . . must set forth specific facts showing that there is a genuine issue for trial."Anderson v. Liberty Lobby, Inc., 477 U.S. 242,248(1986) (quoting Rule 56(e)). A genuine issue of material fact exists if "the evidence is such that a reasonable jury could return a verdict for the nonmoving party," and material facts are those "that might affect the outcome of the suit under the governing law." Id. The Court must "view the evidence in the light most favorable to the nonmoving party." Suzuki Motor Corp. v. Consumers Union of US., Inc., 330 F.3d 1110, 1140 (9th Cit 2003).

"[I]f the opposing party does not serve and file the required answering memoranda, . . such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may

dispose of the motion summarily." LRCiv 7.2(i), Local Rules. Yet a motion for summary judgment may be granted only if the moving party meets its initial burden under Rule 56(c). See Martinez v. Stanford, 323 F.3d 1178, 1182—83 (9th Cir. 2003).

Motions for Summary Judgment

City of Tucson

Most of the claims hinge on whether Cramner's arrest was wrongful.2

(1) Warrantless Arrest

a. Legal Standard

A warrantless felony arrest may be made based upon probable cause. Tennessee v. Garner, 471 U.S. 1, 7 (1985). "Probable cause [to arrest] is established if, at the time the arrest is made, 'the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the petitioner had committed or was committing an offense." Bailey v. Newland, 263 F.3d 1022, 1031 (9th Cir. 2001) (quoting Beck v. Ohio, 379 U.S. 89, 91 (1964)), cert. denied, 535 U.S. 995 (2002). When there has been communication among agents, probable cause can be based upon the investigating agents' collective knowledge. United States v. Butler, 74 F.3d 916, 920—21 (9th Cir.), cert. denied, 519 U.S. 967 (1996). The individual City Defendants are entitled to

qualified immunity if their actions were

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2 Because summary judgment for the City Defendants is justified on the merits, the Court does not address the City's arguments regarding the improper naming of parties.

constitutional. Prison Legal News v. Lehman, 397 F.3d 692, 701(9th Cir. 2005).

Cranmer was arrested for fraudulent schemes and artifices, and for theft, both felonies. The former is committed by anyone who, "pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions." A.R.S. § 13-2310(A). Theft is committed by anyone who "[o]btains services or property of another by means of any material misrepresentation with intent to deprive the other person of such property or services; or.. . [c]ontrols property of another knowing or having reason to know that the property was stolen A.R.S. § 13- 1802(A)(3) and (5).

b. Discussion

Det. Lenard and Sgt. Speilman had probable cause to arrest Cranmer. Although the investigation pointed to Hering as the primary suspect, several facts implicated Cranmer as well. Cranmer was living with and apparently married to Hering, and he had received benefits such as furniture, flight lessons, and large bank deposits from the fraudulent credit

charges. Cranmer learned from Wells Fargo in December 2001 that Hering had made elaborate attempts to prevent him from reporting fraud to Wells Fargo. In January, 2002, Cranmer reported that Hering's American Express payment to Tucson Aero was fraudulent, and he received reimbursement from American Express without contacting Tucson Aero about the fraud. In March 2002, again after having reason to suspect Hering' s behavior, Cranmer told Tyconic that Hering would phone in a credit card for his account, and that she would come by to pay the shortfall caused by Hering's credit card fraud. Cranmer told Prudential Financial, and later Wells Fargo, that the Secret Service was investigating fraud against him, and he gave them a nonexistent Secret Service report number. Cranmer provided Prudential Bank with a cell phone number answered by someone who claimed she did not know Cranmer. Cranmer told Weaver about the alleged Secret Service investigation, incorrectly stated that Gary Coiwill was his attorney, and gave Weaver an incorrect phone number for Coiwill. Although Cranmer told FBI agent Scharman that Hering had told Cranmer about the FBI/Secret Service investigation, a few days later Cranmer told the Tucson Police Department that Scharman was working on a fraud case for him.

These facts would lead a prudent person to conclude that Cranmer was at least a willing participant in some of Hering's crimes. As Defendants point out, Cranmer himself was concerned that he could have been implicated in the crimes. (Cranmer Deposition at 93:8—9, Exh. 6, City Defs.' Stmnt.

Facts (Dec. 14, 2004).) Det. Lenard's sources were several reliable bank investigators. Cf Fuller v. MG. Jewelry, 950 F.2d 1437, 1444—45 (9th Cir. 1991) (finding that investigation behind arrest was sufficiently thorough where officers corroborated citizen informant testimony with several other witnesses). Even assuming that Hering had deceived Cranmer so thoroughly as to cause him to innocently make all of the above erroneous statements, the likelihood of such an explanation was not so great that it negated the reasonable belief that Cranmer had been involved in the crimes. In addition, "the mere fact a prosecution was unsuccessful does not mean it was not supported by probable cause." Freeman v. City of Santa Aria, 68 F.3d 1180, 1189 (9th Cir. 1995). Consequently, the City Defendants committed no Fourth Amendment violation in arresting Cranmer.

Plaintiff has not met his burden of opposing the motion for summary judgment with specific facts. Even if the Court were to consider Plaintiff's untimely response, Plaintiff offers no evidence of his own, does not cite Defendants' evidence, and does not even cite Defendants' Statement of Facts. Plaintiff merely quotes the City Defendants' motion for summary judgment, which in turn refers to their statement of facts. These facts, already considered above, describe Hering's misconduct, but they do not absolve Cranmer to such a degree that no probable cause existed to support his arrest. Similarly, in Plaintiffs response to the Tyconic Defendants, he cites only page 131 of his own deposition, which shows that he told Speilman that

he would come to Tyconic to pay the bill. This conversation between Cranmer and Spellman is not sufficiently clear or revealing to undermine Speilman's reasonable belief that Cranmer had committed crimes.

(2) Arizona Constitutional Claim

The City Defendants are entitled to summary judgment on Plaintiffs Victims' Bill ofRights claim. Article 2.1 (A)(1) of the Arizona Constitution provides that victims "be treated with fairness, respect, and dignity, and be free from intimidation, harassment, or abuse. . . As discussed above, however, Cranmer's arrest was not wrongful, and no evidence indicates that the interrogation was abusive. In addition, victims' rights do not attach until the arrest of the perpetrator, and Hering was not arrested until later on the day of Cranmer's arrest. See A.R.S. § 13-4402(A). See also State v. Stauffer, 203 Ariz. 551, 554, 58 P.3d 33, 36 (App. 2002) (victims' rights "arise only upon an arrest 9 or formal charg[e]").

(3) Violation of Rights Under the Laws of Arizona

Plaintiff alleges the violation of his rights under the laws of Arizona. Defendant moves for this claim to be dismissed for failure to state a claim upon which relief can be granted, pursuant to Rule l2(b)(6), Fed. R. of Civ. P. Plaintiff did not respond to this argument. Under LRCiv 7.2(i), Local Rules, failure to respond to a motion may be deemed a consent to the granting of the motion, and the Court may dispose of

the motion summarily. Accordingly, Count III of Plaintiffs complaint is dismissed.

(4) False Imprisonment

Plaintiffs false imprisonment claim fails because his arrest was reasonable, "The law is well settled that the existence of probable cause is a complete defense to claims of false imprisonment and malicious prosecution." Flockett v. City of Tucson, 139 Ariz. 317, 319, 678 P.2d 502, 505 (App. 1983). The "imprisonment" of Cranmer was not "false," because probable cause existed for the arrest. Restatement (Second) of Torts § 121 (Arrest by Peace Officer Without Warrant).

(5) Malicious Prosecution

Plaintiffs malicious prosecution claim fails for the same reason that the false imprisonment claim fails above.

(6) Defamation of Character

Any statements made by the City Defendants in investigating and arresting Cranmer are entitled to privilege against his defamation claim. Long v. Mertz, 2 Ariz. App. 215, 220, 407 P.2d 404, 409(1965) (absolute privilege exists for statements made "while doing an act in the course of 9 official duties which [are] directed or authorized specifically [I law"; qualified privilege exists unless statements "were

actuated by malice in fact or were not made in good faith").

(7) Gross Negligence/Negligence

The City Defendants have shown that their actions were reasonable, and Plaintiff has not raised a genuine issue of material fact indicating that their actions were negligent, nor that they were grossly negligent. Weatherfordex re/i MichaelL. v. State, 206 Ariz. 529, 536 n.4, 81 P.3d 320, 327 n.4 (2003) ("[N]egligence suggests 'a failure to measure up to the conduct of a reasonable person.' [Daniels v. Williams, 474 U.S. 327, 332 (1986).] Gross negligence generally signifies 'more than ordinary inadvertence or inattention. .. .' [Fargo v. City of San Juan Bautista, 857 F.2d 638, 641 (9th Cir. I 988)j.") See also Fuller, 950 F.2d at 1444—45 (investigation based on multiple corroborated sources is sufficiently thorough).

(8) Intentional Infliction of Emotional Distress

Finally, the City Defendants have shown that they did not commit intentional infliction of emotional distress. An TIED claim fails if the Defendant's conduct was not "extreme and outrageous." See Citizen Publishing Co. v. Miller, 2005 WL 1538272, *3 (Ariz. Sup. Ct. July 1, 2005).

> That issue may only go to the jury where "reasonable minds may differ." [Restatement (Second) of Torts § 46]. Even if a defendant's conduct is

> unjustifiable, it does not necessarily rise to the level of "atrocious" and "beyond all possible bounds of decency" that would cause an average member of the community to believe it was "outrageous." Ford v. Revlon, Inc., 153 Ariz. 38, 43, 734 P.2d 580, 585 (1987); [Lucchesi v. Frederic N. Stimmell, MD., Ltd., 149 Ariz. 76, 78, 716 P.2d 1013, 1015 (1986)]. Nelson v. Phoenix Resort Corp., 181 Ariz. 188, 199, 888 P.2d 1375, 1386 (App. 1994).

There is no evidence of extreme and outrageous conduct. The arrest, by itself, was reasonable and was supported by probable cause. Reasonable minds could not conclude that the interrogation was extreme and outrageous. The questioning period was intermittent, and lasted only three hours, including the breaks. No physical force or restraints were used. Cranmer was permitted to use the restroom. Speliman did not even raise his voice. That Speilman repeatedly prompted Cranmer to confess is mild. Speilman's accusations that Cranmer had committed fraud, possibly even in his claiming to be a physician, was not "beyond all possible bounds of decency" given Spellman's reasonable belief that Cranmer had assisted in numerous frauds. See Schiller v. Mitchell, 828 N.E.2d 323, 334 (In. App. 2005) ("There is nothing inherently extreme and outrageous about conducting investigations or inspecting or questioning or suspecting."); Tavakoli-Nouri v. State, 779 A.2d 992, 1000 (Md. App. 2001) (public arrest and dragging to detention room, interrogation, body search,and handcuffing was not "extreme and outrageous").

Tyconic

Plaintiffs claims against the Tyconic Defendants derive wholly from the actions of Speilman. Plaintiffs claims do not mention any specific wrongdoing by Kathleen Dailey, except to the extent that she was Speliman's supervisor and could have prevented Speliman's torts. Plaintiffs claims against Tyconic, Inc. and Dailey are brought under a theory of vicarious liability, because they consented to the arrest occurring at Tyconic.

As discussed above, Spellman is entitled to summary judgment on the torts alleged against him. The other Tyconic Defendants have shown that Spellman was acting within the scope of his authority as a police officer, and not as a Tyconic flight instructor.

> [A]n employee is acting within the scope of his employment while he is doing any reasonable thing which his employment expressly or impliedly authorizes him to do or which may reasonably be said to have been contemplated by that employment as necessarily or probably incidental to the employment.

Ray Korte Chevrolet v. Simmons, 117 Ariz. 202, 207, 571 P.2d 699, 704 (App. 1977). Arresting Cranmer was not authorized by or incidental to Speilman's duties as a flight instructor. Although Plaintiff's complaint alleges that Tyconic plotted to lure Cranmer to the business, the evidence shows that

Cranmer initiated the contact with Tyconic on the day of his arrest, and that Cranmer volunteered to come to pay an unpaid bill. Tyconic's and Dailey's only activity was to permit Spellman to detain and arrest Cranmer at Tyconic. A person who "aid[s] a peace officer shall not be held liable to any person for damages resulting therefrom, provided such person acted reasonably . . . ." A.R.S. § 13-2403. A business's mere grant of permission for a police officer to detain a suspect on the premises until backup arrives is reasonable, This is not to suggest that the blending of Spellmants off-duty job at Tyconic with his law enforcement responsibilities was ideal.

Conclusion

The City Defendants are entitled to summary judgment because they have shown that probable cause supported Cranmer's arrest, and that they treated Cranmer reasonably.

Tyconic Defendants are entitled to summary judgment because they are not liable for merely permitting the police to arrest Cranmer on the premises.

Accordingly,
IT IS ORDERED that Defendants' motion to strike [DOC # 46] is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's responses [DOC ## 40 and 42] to Defendants' motions for summary judgment are STRICKEN as untimely. The Clerk of the Court is directed to lodge both of

Plaintiff's responses so that they will be included in the record in the event of an appeal.

IT IS FURTHER ORDERED that all Defendants' motions for summary judgment[DOC #1131 and 32] are GRANTED.

IT IS FUIRTHIER ORDERED that the Clerk of the Court is directed to enterjudgment accordingly.

DATED this 12th day of September, 2005.

S/_____
John M. Roll
United States District
Judge